

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**DUSTIN ANDREW MILLS,**

**Petitioner,**

**v.**

**Case No. 19-CV-412**

**WARDEN PAUL KEMPER,**

**Respondent.**

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**ORDER ON PETITION FOR A WRIT OF HABEAS CORPUS**

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Dustin Andrew Mills, who is incarcerated pursuant to the judgment of a Wisconsin Circuit Court, filed a petition for a writ of habeas corpus. Rule 4 of the Rules Governing Section 2254 Cases states:

If it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court, the judge must dismiss the petition and direct the clerk to notify the petitioner. If the petition is not dismissed, the judge must order the respondent to file an answer, motion, or other response within a fixed time, or to take other action the judge may order.

Mills was 12-years-old when he sexually assaulted a six-year-old. The victim did not report this offense until about 9 years later when Mills was 21. Because Mills was an adult at the time the charges were brought, he was prosecuted as an adult. He argues he was denied due process because the charges were not brought against him when he was

a juvenile. (ECF Nos. 1 at 7-8; 2 at 14-17.) Mills also argues that his statement was involuntary because he was concerned that if he did not cooperate his probation would be revoked. (ECF Nos. 1 at 6-7; 2 at 9-14.)

Mills appealed and his attorney filed a no merit report. The court of appeals summarily affirmed Mills's conviction. *See State v. Mills*, 2016AP000930-CRNM (Wis. Ct. App., Apr. 27, 2017), available at <https://www.wicourts.gov/ca/opinion/DisplayDocument.pdf?content=pdf&seqNo=189232>. The Wisconsin Supreme Court denied review on January 8, 2018. (ECF No. 1 at 3.)

Having reviewed the petition, the court is unable to say that it is plainly apparent that Mills is not entitled to relief. Therefore, the respondent shall answer the petition.

The Clerk of Court shall promptly serve the respondent by service of a copy of the petition and this order upon the State of Wisconsin Attorney General.

Within **60 days** of the date of this order, the respondent shall either answer the petition in accordance with Rule 5 of the Rules Governing Section 2254 Cases or file a motion to dismiss. An optional supplemental brief in opposition to the petition may be filed along with the answer to the petition.

Within **28 days** of the respondent's answer or motion to dismiss, Mills shall submit a brief in response.

In the event the respondent files a motion to dismiss, the respondent shall have **14 days** from Mills's response in which to file a reply.

Unless the court determines that additional proceedings are necessary, that will conclude the briefing. The court will then resolve the petition on the written record.

**SO ORDERED.**

Dated at Milwaukee, Wisconsin this 4th day of April, 2019.

  
WILLIAM E. DUFFIN  
U.S. Magistrate Judge